

For Shelley and Walton, attorneys' fees, \$2,500.00.

STOREY, *Chairman.*

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Finance, to whom was referred Senate Bill No. 247, entitled, "An Act for the relief of the collecting officers of the State of Texas," have had the same under consideration, and I am instructed to report it back and recommend that it do not pass.

STOREY, *Chairman.*

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Finance, to whom was referred Senate Bill No. 204, entitled, "An Act for the relief of James Harding," have had the same under consideration, and instruct me to report it back and recommend that it do not pass.

STOREY, *Chairman.*

The Senate being announced full, the motion of Senator Douglass to suspend the rule and take up House Bill No. 212, "An Act to facilitate commerce and navigation within the navigable waters of Texas," was carried.

On motion of Senator Smith, the call was suspended.

Senator Edwards in the chair.

Pending Senator Crain's motion to reconsider the vote passing the bill to third reading, Senator Burton moved to adjourn until 9 o'clock A. M., Monday.

Lost.

On motion of Senator Stephens, the Senate adjourned until 8 o'clock A. M., Monday.

EIGHTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 31, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. No quorum present.

On motion of Senator Storey, the Senate adjourned until 8:30 A. M.

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

Journal of Saturday adopted.

The President took up House Bill No. 263, "An Act to levy a tax on dogs, and to provide for the assessment and collection of the same," and referred it to the Committee on Finance; and substitute for House Bill No. 345, "An Act to diminish the civil and criminal jurisdiction of the County Court of Angelina county, and to conform the jurisdiction of the District Court of said county to such change."

Referred to Judiciary Committee No. 2.

On motion of Senator Storey, the rules were suspended, and House Bill No. 419, entitled, "An Act to establish a branch of the Agricultural and Mechanical College of Texas for the benefit of the colored youths, and to make an appropriation therefor," was taken up, and, on motion of Senator Douglass, read.

Referred to Committee on Education.

Senator Grace, Chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Enrolled Bills have carefully examined, compared and found correctly enrolled, Senate Bill No. 109, entitled, "An Act to regulate grand juries and juries in civil and criminal cases in the courts of the State." The same has been properly signed and presented to the Governor this day, at 9:40 o'clock A. M., for his approval.

GRACE, *Chairman.*

Senator Stephens, Chairman of the Committee on Engrossed Bills, submitted the following report :

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Engrossed Bills have examined, compared and found correctly engrossed, Senate Bill No. 316, "An Act to set apart one million of acres of the unappropriated public domain of the State for the establishment and maintenance of the University of Texas," etc.

STEPHENS, *Chairman.*

Senator Grace, Chairman of the Committee on Enrolled Bills, submitted the following report :

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Enrolled Bills have carefully examined, compared and found correctly enrolled, Senate Bill No. 369, entitled : "An Act to provide for holding a special term of the District Court of Collin county in November, 1876, for the trial of criminal causes." The same has been properly signed, and presented to the Governor this day, at 8:40 o'clock A. M., for his approval.

GRACE, *Chairman.*

Senator Douglass offered the following resolution :

WHEREAS, The Senate heretofore, on the 10th day of July, passed a resolution fixing the day of adjournment *sine die*; and

WHEREAS, It now appears that a large amount of important business remains unfinished by the two Houses; therefore,

Resolved, That a committee of three members be appointed by the President to wait upon the House and notify it that the Senate will continue its sessions during the day and until such time as may be hereafter agreed upon by both Houses for an adjournment.

Resolution adopted, and the President appointed on said committee, Senators Douglass, Martin, and Grace.

Senator Storey moved to reconsider the vote adopting the resolution.

Senator Douglass moved to lay the motion to reconsider on the table.

Senator Storey moved a call of the Senate.

Call sustained.

Roll called.

ABSENT—Senators Burton, Ford, McLeary, Piner—4.

Senator Douglass raised the point of order that Senator Storey, voting in the negative, could not make the motion to reconsider.

The President overruled the point of order, as the vote was not taken by yeas and nays, and the chair had no legal means of knowing how the Senator voted.

On motion of Senator Guy, the rules were suspended, and House Bill No. 71, "An Act to regulate and prescribe the manner of assessing and collecting taxes to meet the interest and create a sinking fund to pay principal and interest on bonds heretofore issued by cities in aid of in-

ternal improvements, and to regulate the disbursement of the same," was taken up and read first time.

Senator Smith in the chair.

On motion of Senator Guy, the rules were suspended to place the bill on its second reading, by the following vote:

YEAS—Senators Ball, Blassingame, Brown, Crain, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Smith, Stephens, Storey, Thompson, Wortham—21.

NAYS—None.

NOT VOTING—Senators Brady, Burton, Ford, Grace, McLeary, Piner, Terrell—7.

Read second time and passed to a third reading.

On motion of Senator Douglass, the bill was temporarily postponed. President in the chair.

On motion of Senator Thompson, the rules were suspended, and House Bill No. 72, "An Act to amend an act entitled, 'An Act to provide for and regulate mechanics', contractors', builders', and other liens in the State of Texas,' approved November 17, 1871," was taken up, read third time and passed.

Senator Crain, Chairman of the Committee on Stock and Stock Raising, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Stock and Stock Raising, to whom was referred House Bill No. —, entitled, "An Act to carry into effect Section 22, Article 16, of the Constitution of the State of Texas, authorizing the passage of a fence law," have had the same under consideration, and respectfully report the same back with the accompanying amendments, and recommend that as amended the bill do pass. *CRAIN, Chairman.*

Amend the caption by inserting, before the word, "article," the words, "and twenty-three," and before the word, "fence," insert, "stock and."

In Section 1, line 9, strike out, "fence," and insert, "stock, other than horses, mules, jacks, jennets and all classes of horned cattle."

In line 11, strike out, "constitute a lawful fence," and insert, "may run at large."

In line 14, strike out, "fence," and insert, "stock."

In line 22, strike out, "fence," and insert, "kind of stock."

In Section 2, line 6, strike out, "fence," and insert, "stock."

In line 7, strike out, "constitute a lawful fence," and insert, "shall run at large."

Strike out the proviso.

In Section 3, line 10, strike out, "within," and insert, "not less than."

In lines 17 and 20, strike out, "fence," and insert, "stock."

In Section 6, strike out, "sheep, hogs or goats," and insert, "stock not permitted to run at large."

Add to the section: "Provided, That in such county or subdivision, said owners or lessees shall not be required to fence against stock not permitted to run at large. And any fence in said county or subdivision, which is sufficient to keep out ordinary stock permitted to run at large, under this act, shall be deemed a lawful fence."

Senator Storey moved to suspend the rules and take up substitute for

House Bills Nos. 189 and 211, "An Act to carry into effect Section 22, Article 16, of the Constitution of the State of Texas, authorizing the passage of fence laws."

Lost.

The Senate being announced full, Senator Douglass' motion to lay Senator Storey's motion, to reconsider Senate Resolution to not adjourn at 12 M. to-day, was taken up, and carried by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Douglass, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Wortham—16.

NAYS—Senators Brown, Burton, Crain, Ford, McLeary, McCormick, McCulloch, Smith, Stephens, Storey, Terrell, Thompson—12.

On motion of Senator Grace the message of the Governor, of Saturday, was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, July 29, 1876. }

To the Honorable Senate of the State of Texas:

GENTLEMEN:—I respectfully ask your advice and consent to the following appointments, to-wit:

R. H. Sayers, Notary Public for Hill county.

W. W. Watlington, Notary Public for Bowie county.

B. J. L. Powell, Notary Public for Camp county.

George H. Judson, Notary Public for Bexar county.

W. G. M. Samuel, " " " " " "

E. W. Shands, Notary Public for Travis county.

James H. Caton, Notary Public for Red River county.

S. B. McQuinn, Notary Public for Denton county.

M. F. Cutting, Notary Public for Bosque county.

F. B. Looney,

in place of B. }

F. Looney,

Notary Public for Freestone county.

Very Respectfully,

RICHARD COKE, Governor.

On motion of Senator Wortham, the Senate went into Executive Session.

IN SENATE.

The Secretary was instructed to inform His Excellency, the Governor, that the Senate does advise and consent to all his appointments of Notaries Public in his message of the 29th inst.

Senator Martin in the chair.

House Bill No. 212, entitled, "An Act to facilitate commerce and navigation within the navigable waters of the State of Texas," being the unfinished business, was taken up.

Pending the motion of Senator Crain, to reconsider the vote passing the bill to a third reading, Senator Brady moved the previous question.

Seconded, and the main question ordered.

The President signed, after publicly reading their captions, Senate Bill No. 188½, entitled, "An Act to provide for supplying records in certain cases," and Senate Bill No. 235, entitled, "An Act to incorporate the city of San Antonio and grant a new charter to said city, and to repeal certain acts herein named to incorporate said city."

The motion to reconsider the vote passing House Bill No. 212 to a third reading, was lost by the following vote:

YEAS—Senators Brown, Crain, Edwards, Francis, Ford, McLeary, McCormick, McCulloch, Stephens—9.

NAYS—Senators Ball, Blassingame, Brady, Douglass, Guy, Henry F. M., Hobby, Ledbetter, Moore, Piner, Smith, Storey, Wortham—13.

NOT VOTING—Senators Burton, Grace, Henry J. R., Martin, Terrell, Thompson—6.

Senator McCormick moved a call of the Senate.

Call sustained.

Roll called.

ABSENT—Senators Burton, Thompson.

Pending the call the bill went to the table.

President in the chair.

On motion of Senator Edwards, the special order was postponed.

Rules suspended and his motion to reconsider the vote passing Senate Bill No. 287, entitled, "An Act to grant a charter to the city of Austin," etc., was taken up.

Motion carried and said vote reconsidered.

Senator Crain offered, as an amendment to the Austin city charter, the following section:

"SEC. —. This act shall not have effect or become the charter of the city of Austin until it be ratified and accepted by a majority of the qualified voters of said city, at such time in the month of September as the Mayor, by proclamation, shall designate; the said election shall be held in accordance with the laws governing elections, and the Mayor shall give due notice thereof. Those electors who wish this act to become their charter shall have written or printed on their ballots, 'For the Charter,' and those electors who wish this act not to become the charter of said city shall have written or printed on their ballots 'Against the Charter.' The Mayor shall, within three days, by proclamation, declare the result of the election, and in the event of the legal vote cast being, 'For the Charter,' this act shall immediately become the charter of the city of Austin; should a majority of the legal votes cast be, 'Against the Charter,' then this act shall be of no force and effect whatever."

Adopted.

The bill then passed, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Burton, Crain, Douglass, Edwards, Francis, Ford, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Piner, Storey, Terrell, Wortham—22.

NAYS—None.

NOT VOTING—Senators Brown, Grace, McLeary, Smith, Stephens, Thompson—6.

Senator Douglass submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

*Your Select Committee appointed to communicate to the House the resolution of the Senate, that this House will remain in session during the day and until such time as the two Houses may agree to adjourn, beg leave to report that they have performed that duty and ask to be discharged.

DOUGLASS, *Chairman.*

On motion of Senator Storey, the rules were suspended, and House Bill No. 412, "An Act making appropriations for deficiencies for the fiscal year beginning September 1, 1875, and ending August 31, 1876, and previous years," was taken up.

Senator Henry of Cass moved that the Senate stand adjourned until 3:30 o'clock this afternoon.

Senator Storey raised a point of order that as both Houses had adopted a resolution to adjourn *sine die* at 12 o'clock M., that unless the Senate had official notice from the House that the House had rescinded the resolution, that it is the duty of the President to declare the Senate adjourned *sine die* at 12 M., and that the motion of the Senator from Cass was out of order.

The President declared the point not well taken.

A message was received from the House announcing that the House had adjourned until 3:30 o'clock this afternoon.

Senator Storey moved a call of the Senate.

The President declared the motion out of order.

Senator Henry having temporarily withdrawn his motion, Senator Grace submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills have carefully examined, compared and found correctly enrolled Senate Bill No. 235, "An Act to incorporate the city of San Antonio."

Also, Senate Bill No. 188½, "An Act to provide for supplying lost records in certain cases."

The same has been properly signed and presented to the Governor this day, at 10:5 o'clock A. M., for his approval. GRACE, *Chairman*.

At 10:25 A. M., Senator F. M. Henry renewed his motion to adjourn until 3:30 this afternoon.

Carried, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Douglass, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Wortham—16.

NAYS—Senators Brown, Smith—2.

PRESENT AND NOT VOTING—Senators Burton, Crain, Ford, McLeary, McCormick, McCulloch, Stephens, Storey, Terrell, Thompson—10.

ABSENT, WITH LEAVE—Senators Carroll, Motley, Ripetoe—3.

Senator Storey made the point of order that the Senate having here tofore, by a concurrent resolution, resolved to adjourn on the 31st of July (this day), which resolution was concurred in by the House, that the present motion, to adjourn the Senate to 3:30 P. M., is not in order.

The Chair ruled as follows:

"The Chair holds that the Senate, by express resolution, having rescinded the resolution to adjourn on this day, at 12 M., and having, this morning, through a committee of the Senate, formally notified the other House that they had withdrawn their "consent" to adjourn this day, and subsequently thereto the House having, *after* such notice from this body, solemnly resolved to adjourn to 3:30 P. M., this day (three and one-half hours after the hour first agreed to), the premises considered, the Chair holds that the *concurrent* action of *both* Houses, in agreeing to adjourn to 3:30 o'clock, P. M., the same hour, is a rescinding of the *former* concurrent resolution to adjourn on the 31st.

"I must entertain the motion, further, because a 'motion to adjourn is always in order,' with certain exceptions, and the present case does not constitute one of those exceptions. The President of the Senate can only declare the will of this body, expressed in a constitutional mode. And in obedience to that expressed will, there being a clear majority of all Senators *present*, voting for the motion to adjourn till 3:30 o'clock, I hereby declare the Senate adjourned till the hour named."

AFTERNOON SESSION.

Senate met pursuant to adjournment. President in the chair. Roll called. No quorum present.

Senator Guy moved to adjourn until to-morrow morning at 9 o'clock.

Lost.

Senator Moore moved to adjourn until 4 o'clock p. m.

Carried.

Senate met according to adjournment. Roll called. No quorum present.

On motion of Senator Wortham, the Senate adjourned until to-morrow at 9 o'clock a. m.

EIGHTY-NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, August 1, 1876. }

The Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Rev. Mr. Stanton, Chaplain of the House.

The journal of yesterday adopted.

House Bill No. 412, "An Act making appropriations for deficiencies for the fiscal year beginning September 1, 1875, and ending August 31, 1876, and previous years, being unfinished business, was taken up, pending the amendments of the committee.

On motion of Senator McLeary, fifty copies were ordered printed and made the special order for to-morrow at 11 o'clock a. m., and from day to day until disposed of.

Senator Terrell arose to a question of privilege and presented the following protest:

We, the undersigned, a minority of the Senate of Texas, desire to enter this our solemn protest against the manner in which a majority of both Houses of the Legislature have attempted to evade the effect of a concurrent resolution to adjourn on the 31st day of July, 1876, at 12 o'clock m.

As evidence that we enter this protest in no captious spirit, we now announce to the majority of the Senate that if the Legislature shall this day adjourn *sine die*, we will join them in supporting a bill limiting the per diem pay of Senators to two dollars during the extra session.

JOHN S. FORD,
L. J. STOREY,
WELLS THOMPSON,
A. P. McCORMICK,
W. H. CRAIN,

JOHN D. STEPHENS,
J. H. McLEARY,
W. M. BURTON,
A. W. TERRELL,
T. J. McCULLOCH.